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8

9 **BEFORE THE**
10 **BOARD OF REGISTERED NURSING**
11 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

12 In the Matter of the Accusation Against:

13 **CAROLYN GRACIA MEYER, aka**
14 **CAROLYN GRACIA MEYER MOORE**
15 **BECK NOVESKE**
3338 East Lowe
Fresno, California 93702

16 Registered Nurse License No. 463902

17 Respondent.

Case No. 2008-87

OAH No.

**DEFAULT DECISION
AND ORDER**

[Gov. Code, §11520]

18 **FINDINGS OF FACT**

19 1. On or about September 14, 2007, Complainant Ruth Ann Terry, M.P.H.,
20 R.N., in her official capacity as the Executive Officer of the Board of Registered Nursing
21 ("Board"), Department of Consumer Affairs, filed Accusation No. 2008-87 against Carolyn
22 Gracia Meyer also known as Carolyn Gracia Meyer Moore Beck Noveske ("Respondent") before
23 the Board of Registered Nursing.

24 2. On or about March 31, 1991, the Board issued Registered Nurse License
25 Number 463902 ("License") to Respondent. The License expired on August 31, 2006, and has
26 not been renewed.

27 3. On or about September 20, 2007, Kasey P. Arismende, an employee of the
28 Department of Justice, served by Certified and First Class Mail a copy of Accusation No.

1 2008-87 ("Accusation"), Statement to Respondent, Notice of Defense, Request for Discovery,
2 and Government Code sections 11507.5, 11507.6, and 11507.7 to Respondent's address of record
3 with the Board, which was and is: 3338 East Lowe, Fresno, California 93702. A copy of the
4 Accusation, the related documents, and Declaration of Service are attached as exhibit A, and are
5 incorporated herein by reference.

6 4. Service of the Accusation was effective as a matter of law under the
7 provisions of Government Code section 11505, subdivision (c).

8 5. On or about October 31, 2007, the aforementioned documents that were
9 served by Certified Mail were returned by the U.S. Postal Service marked "Unclaimed." A copy
10 of the envelope returned by the post office is attached as exhibit B, and is incorporated herein by
11 reference.

12 6. Government Code section 11506 states, in pertinent part:

13 "(c) The respondent shall be entitled to a hearing on the merits if the respondent
14 files a notice of defense, and the notice shall be deemed a specific denial of all parts of
15 the accusation not expressly admitted. Failure to file a notice of defense shall constitute a
16 waiver of respondent's right to a hearing, but the agency in its discretion may nevertheless
17 grant a hearing."

18 7. Respondent failed to file a Notice of Defense within 15 days after service
19 upon her of the Accusation, and therefore waived her right to a hearing on the merits of the
20 Accusation.

21 8. Government Code section 11520 states, in pertinent part:

22 "(a) If the respondent either fails to file a notice of defense or to appear at the
23 hearing, the agency may take action based upon the respondent's express admissions or
24 upon other evidence and affidavits may be used as evidence without any notice to
25 respondent."

26 9. Pursuant to its authority under Government Code section 11520, the Board
27 finds Respondent is in default. The Board will take action without further hearing and, based on
28 Respondent's express admissions by way of default and the evidence before it, contained in

1 exhibits A, B and C, finds that the allegations in the Accusation are true.

2 10. The total costs for investigation and enforcement are \$4,671.50 as of
3 December 18, 2007.

4 DETERMINATION OF ISSUES

5 1. Based on the foregoing findings of fact, Respondent has subjected her
6 License to discipline.

7 2. A copy of the Accusation and the related documents and Declaration of
8 Service are attached.

9 3. The agency has jurisdiction to adjudicate this case by default.

10 4. The Board of Registered Nursing is authorized to revoke Respondent's
11 Registered Nurse License based upon the following violations alleged in the Accusation:

12 a. Respondent is subject to disciplinary action under Business and
13 Professions Code section 2761, subdivision (a), on the grounds of unprofessional
14 conduct, as defined in Business and Professions Code section 2762, subdivision (a), in
15 that while licensed as a registered nurse, Respondent committed acts, as follows:

16 1. On or about February 10, 2004, Respondent possessed
17 Marijuana and Methamphetamine, both controlled substances, in violation
18 of Code section 4060.

19 2. On or about February 10, 2004, and for the preceding five
20 (5) years, Respondent self-administered Marijuana and Methamphetamine,
21 both controlled substances.

22 3. On or about May 10, 2007, Respondent possessed
23 Methamphetamine, a controlled substance, in violation of Code section
24 4060.

25 4. On or about May 10, 2007, and for the preceding ten (10)
26 years, Respondent self-administered Methamphetamine, a controlled
27 substance.
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Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

It is so ORDERED April 15, 2008

La Trancine W Tate
FOR THE BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS

Attachments:

Exhibit A: Accusation No.2008-87, Related Documents, and Declaration of Service
Exhibit B: Copy of Envelope Returned by Post Office

Exhibit A

Accusation No. 2008-87,
Related Documents and Declaration of Service

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11 **STATE OF CALIFORNIA**

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BECK NOVESKE
3338 East Lowe
15 Fresno, California 93702

A C C U S A T I O N

16 Registered Nurse License No. 463902

17 Respondent.
18

19 Ruth Ann Terry, M.P.H., R.N. ("Complainant") alleges:

20 **PARTIES**

21 1. Complainant brings this Accusation solely in her official capacity as the
22 Executive Officer of the Board of Registered Nursing ("Board"), Department of Consumer
23 Affairs.

24 **Registered Nurse License**

25 2. On or about March 31, 1991, the Board issued Registered Nurse License
26 Number 463902 to Carolyn Gracia Meyer ("Respondent"), also known as Carolyn Gracia Meyer
27 Moore Beck Noveske. The registered nurse license expired on August 31, 2006, and has not
28 been renewed.

STATUTORY PROVISIONS

3. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

4. Code section 2764 provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under Code section 2811, subdivision (b), the Board may renew an expired license at any time within eight years after the expiration.

5. Section 2761 of the Code states, in pertinent part, as follows:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct...,

6. Code section 2762 states, in pertinent part, as follows:

In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or administer to another, any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as defined in Section 4022.

COST RECOVERY

7. Code section 125.3 provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

BACKGROUND

8. On February 10, 2004, Respondent was arrested by the Fresno Police Department at the residence she shared with R.K. and Respondent's two sons, who were 17 and

1 19 years of age at that time. Respondent was charged with possession of methamphetamine and
2 drug paraphernalia. Respondent admitted to the police officer that she had used
3 methamphetamine on a regular basis for the preceding five (5) years. Respondent also told the
4 officer that she allowed her sons to smoke marijuana and that she would sometimes smoke
5 marijuana with them.

6 9. On May 10, 2007, Respondent was arrested by the Fresno Police
7 Department. Respondent was charged with possession of methamphetamine and drug
8 paraphernalia. Respondent admitted to the police officer that she had used methamphetamine on
9 a regular basis for the preceding ten (10) years.

10 10. **DRUGS**

11 "Marijuana" is a Schedule I controlled substance as designated by Health and
12 Safety Code section 11054, subdivision (d)(13).

13 "Methamphetamine" is a Schedule II controlled substance as designated by
14 Health and Safety Code section 11055, subdivision (d)(2).

15 **CAUSE FOR DISCIPLINE**

16 **(Possess Controlled Substances in**
17 **Violation of Law, and Self-Administration)**

18 11. Respondent is subject to disciplinary action under Code section 2761,
19 subdivision (a), on the grounds of unprofessional conduct, as defined in Code section 2762,
20 subdivision (a), in that while licensed as a registered nurse, Respondent committed acts, as
21 follows:

22 a. On or about February 10, 2004, Respondent possessed Marijuana and
23 Methamphetamine, both controlled substances, in violation of Code section 4060.

24 b. On or about February 10, 2004, and for the preceding five (5) years,
25 Respondent self-administered Marijuana and Methamphetamine, both controlled substances.

26 c. On or about May 10, 2007, Respondent possessed Methamphetamine, a
27 controlled substance, in violation of Code section 4060.

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1 d. On or about May 10, 2007, and for the preceding ten (10) years,
2 Respondent self-administered Methamphetamine, a controlled substance.

3 **PRAYER**

4 WHEREFORE, Complainant requests that a hearing be held on the matters herein
5 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

- 6 1. Revoking or suspending Registered Nurse License Number 463902, issued
7 to Carolyn Gracia Meyer, also known as Carolyn Gracia Meyer Moore Beck Noveske;
8 2. Ordering Carolyn Gracia Meyer, also known as Carolyn Gracia Meyer
9 Moore Beck Noveske, to pay the Board of Registered Nursing the reasonable costs of the
10 investigation and enforcement of this case, pursuant to Code section 125.3; and,
11 3. Taking such other and further action as deemed necessary and proper.

12 DATED: 9/14/07

13 *Elliot Hochberg for*
14 RUTH ANN TERRY, M.P.H., R.N.
15 Executive Officer
16 Board of Registered Nursing
17 Department of Consumer Affairs
18 State of California
19 Complainant
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